

1 percent of the companies had equipment affected by  
2 viruses this year.

3 Actually, the new political correct term for  
4 "virus," that we should all start using, is electronic  
5 microorganism. The era of the electronic micro --  
6 electronic innocence is over, and it's clearly over.  
7 The encryption debate is one that is fundamental to  
8 private -- to personal privacy and to the ultimate  
9 success of electronic commerce.

10 And the various versions of the encryption  
11 legislation sitting before the House Rules Committee  
12 will have to be worked out and reconciled, but it is  
13 important for us to have this debate as a society.  
14 Because society is both excited and threatened by the  
15 rapid pace of technological change currently underway.

16 And what is the character of this change?  
17 Thomas Mann once said, "A great truth is a truth whose  
18 opposite is also a great truth."

19 In my opinion, the great truth of the  
20 Information Age is that the wondrous wire that brings  
21 new services to homes, businesses and schools, will have  
22 a certain Dickensian quality to it: It will be the best  
23 of wires and the worst of wires simultaneously.

24 It can uplift society as well as debase it.

25 It can promote electronic commerce, democratize mass

1 media, allow people to telecommute to work and to  
2 educate themselves. New digital technologies and other  
3 innovations allow corporations to become more efficient,  
4 workers more productive, and businesses to conduct  
5 commerce almost effortlessly in digital dollars.

6 The same technology, however, may  
7 simultaneously avail corporations of the opportunity to  
8 track the clickstream of a citizen of the Net, to sneak  
9 company hands into a personal information cookie jar,  
10 and to use this database, along with other lists, to  
11 compile sophisticated, highly personal consumer profiles  
12 of people's hobbies, buying habits, financial  
13 information, health information, who they contact or  
14 converse with, when, and for how long.

15 In short, that wondrous wire may also allow  
16 digital desperadoes to roam the electronic frontier  
17 unchecked by any high-tech sheriff or adherence to any  
18 code of electronic ethics.

19 The fact is that the technology itself is  
20 neither good nor bad. It only becomes so when it is  
21 animated through human interaction and imbued with our  
22 values as a society.

23 Interestingly, 50 years ago, in 1947, right  
24 around the time the first electronic computer was  
25 created, a French Jesuit priest named Teilhard de

1 Chardin, talked about this emerging Worldwide Web. He  
2 wrote, however, not about the sheer wonder of a linked  
3 network of machinery, but rather about the true  
4 intelligence of such a network, the human aspect of it.

5 In a book called The Formation of the  
6 Noosphere, a half century ago, he wrote the following:  
7 "No one can deny that a network (a world network) of  
8 economic and psychic affiliations is being woven at ever  
9 increasing speed which envelops and constantly  
10 penetrates more deeply within each of us. With every  
11 day that passes, it becomes a little more impossible for  
12 us to act or think otherwise than collectively."

13 This philosophy foreshadowed what we would  
14 hear from Marshall McLuhan, who based much of his Global  
15 Village philosophy as a secular shorthand, in his own  
16 words, for much of Teilhard's philosophy. He built much  
17 of his on Teilhard's.

18 Teilhard is an appropriate person to use as a  
19 touchstone for a discussion on the console connection  
20 between cells and circuitry, because he was both  
21 theologian and scientist -- paleontologist by training.

22 As a student at Boston College, I learned what  
23 Teilhard envisioned 50 years ago, at the birth of the  
24 electronic computer, was a convergence of humans in a  
25 single, massive noosphere (from the Greek meaning

1 "noos," means "mind"). And although Teilhard  
2 articulated his vision using a religious lexicon, his  
3 concept of a web of human connectivity that would  
4 envelop the earth and be propelled by human  
5 consciousness, sounds remarkably similar to today's  
6 Net.

7 With a community, the whole becomes much  
8 greater than the sum of its parts. This was Teilhard's  
9 main point, and it's also true of computer networks from  
10 a technology standpoint.

11 And how do we ensure that these early console  
12 communities on the electronic frontier take root and  
13 grow? The thing to remember is that communities --  
14 whether real or virtual -- thrive on trust.

15 Electronic commerce, therefore, will only  
16 succeed in our digital domain if there is trust and  
17 security and privacy, and an enforceable code of  
18 electronic ethics.

19 When companies surreptitiously sift out bits  
20 of the data stream and compile lists of highly personal  
21 information, this undermines trust in the community.

22 If Internet access providers fail to give  
23 parents the blocking technology necessary to deal with  
24 the sinister side of cyberspace, this discourages  
25 parents and teachers and community libraries from having

1 youngsters freely use this technology.

2 When young kids can only read an on-line  
3 story, win a prize, or play a game, if they submit  
4 information about themselves and their families, then  
5 parents become rightly outraged.

6 The digital duality of virtual reality  
7 requires us to insist upon measures that establish  
8 trust. Without it, the web will wither into some  
9 lawless labyrinth of wires and switches. Electronic  
10 commerce will never truly take off in a Wild West-like  
11 environment because people won't trust it. We can't  
12 expect everyone in cyberspace to be some version of John  
13 Wayne or Annie Oakley protecting themselves, it won't  
14 work.

15 What can policymakers do, or not do, to hasten  
16 the adoption of measures for security, privacy, and  
17 trust in the electronic environment? Let me outline for  
18 you legislation that I have developed which tries to  
19 bring together and integrate the distinct public policy  
20 pieces that I believe we need in order to simultaneously  
21 advance Net civilization and Net American economic  
22 growth.

23 As many of you know, my privacy position is  
24 premised on the belief that regardless of the technology  
25 that consumers use, their privacy rights and

1 expectations remain a constant. Whether they are using  
2 a phone, a TV, a TV clicker, a satellite dish, or a  
3 modem, every consumer should enjoy a Privacy Bill of  
4 Rights for the Information Age. These core rights are  
5 embodied in a proposal that I have advocated for many  
6 years, and I call it Knowledge, Notice, and No.

7 In short, consumers and parents should get the  
8 following three basic rights:

9 Number one, knowledge that information is  
10 being collected about them. This is very important  
11 because digital technologies increasingly allow people  
12 to electronically glean personal information about users  
13 surreptitiously. I would note here many Internet  
14 companies, for example, use cookies, unbeknownst to the  
15 user, and keep track of what Web sites a person visits.

16 Adequate and conspicuous notice that any  
17 personal information collected is intended by the  
18 recipient for reuse or resale.

19 And number three, the right of a consumer to  
20 say no, and to curtail or prohibit such reuse or sale of  
21 their personal information.

22 My legislation asks the FCC and FTC to look at  
23 how these three privacy rights can be exercised by  
24 consumers through industry standards and self-  
25 regulation, technological tools that empower consumers

1 directly, and finally, a legally binding regulatory  
2 backstop where the marketplace -- when the marketplace  
3 and technology fail to adequately protect the public  
4 interest.

5 Now, I realize that many observers will fret  
6 about the possibility of onerous government  
7 intervention. There are people who see a ne'er-do'well  
8 bureaucrat or knee-jerk regulator behind every tree in  
9 Washington. But my proposal is a middle ground between  
10 a purely marketplace approach on the one hand, and a  
11 more heavy-handed governmentwide Federal superagency to  
12 police the data industry.

13 I believe it is in the industry's interests to  
14 work towards practical solutions now before these issues  
15 get out of control. A marketplace solution can help to  
16 solve some of the problems, but not all of them. In  
17 particular, a purely marketplace approach will fail in  
18 instances where the customers have no idea that a  
19 commercial entity is using data in ways that customers  
20 disapprove. Frankly, it is too expensive for most  
21 consumers and next to impossible for such consumers to  
22 continually monitor whether and when commercial entities  
23 release personal information.

24 In the worst case scenario, leaving cyberspace  
25 customers unprotected against invasive or underhanded

1 disclosure by those operating on the margins of  
2 acceptable conduct is terrible public policy. And, I  
3 might add, bad for everybody else's business. We  
4 shouldn't let the conduct of 5 percent of the  
5 marketplace pollute the environment for the 95 percent  
6 who are good corporate cyber-citizens.

7 I think the consumer needs legally enforceable  
8 privacy rights, period. Some of the current information  
9 practices of some of these companies simply ought to be  
10 against the law. That doesn't necessitate onerous  
11 government regulation. We can allow private sector  
12 contractual arrangements to take care of the privacy  
13 rights and informational needs of consumers and  
14 marketplace entities. But there must be a backstop.  
15 There has to be a privacy safety net, and every consumer  
16 should be guaranteed a minimum level of privacy  
17 protection. They can negotiate in the marketplace for  
18 better protection, if they want, but no one should be  
19 completely left without any recourse.

20 Ensuring the vision of Teilhard and McLuhan,  
21 of a Worldwide Web of human connectivity and economic  
22 and social progress is our dream. Making America the  
23 world leader in these technologies is our dream.

24 Well, as the Irish poet William Butler Yeats  
25 once said, "In dreams begins responsibility." But I



1 think it is as a result, our responsibility to act to  
2 improve consumer privacy and parental empowerment while  
3 the Net is in its relative commercial infancy.

4 I think we should act to give legal rights to  
5 Internet companies to customize their network needs and  
6 get access to the unbundled elements of the local loop.  
7 I also think we should revamp our nation's encryption  
8 policy to take note of the rapidly changing economic and  
9 political circumstances.

10 Right now, many of these issues are at a  
11 stalemate. But technology marches on and does not sit  
12 idly by waiting for policy to catch up.

13 I will be working in our committee with  
14 Chairman Tozan towards the goal of working on these  
15 issues in the weeks and months ahead. These are the  
16 critical issues that are going to ensure that, in fact,  
17 we fully maximize the potential of the usage of Internet  
18 technology. If we don't do it, you will not be able to  
19 convince the great mass of Middle America to use the  
20 technology. They are the ones with money in their  
21 pocket after all, and they still are technophobic to  
22 begin with, much less suspicious of any compromise of  
23 their personal information. So we must deal with the  
24 reality that a community, a business shopping center, is  
25 successful if ordinary, decent families believe they can

1       come down and shop in security.

2               Well, if we're going to try to create a  
3       virtual reality version of that shopping center, we must  
4       give families that same sense of security, or else we  
5       will only maximize 10 percent of the potential that the  
6       Internet and all cyber technologies offer. That's the  
7       reality of it. Most of us, at a certain age, still have  
8       great apprehension about these technologies. So the  
9       government has to work hand-in-hand with the private  
10      sector, with you, who are in this room. And I know  
11      you're apprehensive about it.

12             And I had my best example of it when they  
13      closed down -- they were closing down Ft. Devins as part  
14      of the BRAC process in my district a couple of years  
15      ago. And I got a call, as Ft. Devins was closing very  
16      quickly, from a woman that said to me that her daughter  
17      was engaged to a soldier at Ft. Devins and they wanted  
18      to have the marriage completed before the soldier was  
19      transferred down to Texas, but there was only a couple  
20      of weeks left to go.

21             And so I called the colonel out at Ft. Devins  
22      and he couldn't get it done, and I had to completely go  
23      up the chain of command, and I got the commanding  
24      general and I made this personal, compelling request  
25      that this young woman be allowed to marry the soldier

1 before he's transferred to Texas. And the marriage took  
2 place, and very surprisingly, and gratifyingly, because  
3 it doesn't happen that often, the day after the wedding,  
4 I received a beautiful bouquet from the mother and the  
5 daughter for making the marriage possible.

6 But later that afternoon, I got another  
7 telephone call from Texas, and it just came from the  
8 soldier and he just got on the line and he said,  
9 "Congressman, the next time, why don't you just mind  
10 your own damn business." So clearly there's a balance  
11 we're going to have to strike, and any deliberation  
12 which we make on these issues, and we'll try to be wise  
13 in doing so, but I know that in working with Chairman  
14 Tozan and Chairman Bliley, as we have on every issue  
15 over the past years, we'll be able to do so on a  
16 bipartisan basis towards the goal of advancing not only  
17 wise technologies in encryption, but wise technologies  
18 in all areas of privacy along the line in the years  
19 ahead.

20 I thank you for the invitation to address you  
21 this morning, and I thank Ron especially for that overly  
22 generous introduction. Thank you very much.

23 \* \* \* \* \*

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## REPORTER'S CERTIFICATE

STATE OF COLORADO )

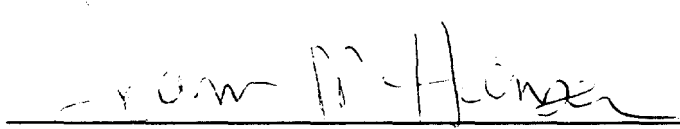
) ss.

CITY AND COUNTY OF DENVER )

I, JOANN M. HANSEN, Registered Professional Reporter and Notary Public, State of Colorado, do hereby certify that the said cassette tape was transcribed by me and thereafter reduced to typewritten form, consisting of 20 pages herein; that the foregoing is a true transcript of the proceedings had. I further certify that I am not employed by, related to, nor of counsel for any of the parties herein.

IN WITNESS WHEREOF, I have affixed my signature and seal this 4th day of November, 1997.

My commission expires February 11, 1999.

  
Joann M. Hansen  
Registered Professional Reporter

